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COMMITTEE ON THE RIGHTS OF THE CHILD
Twenty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: India

1. At its 589th to 591st meetings (see CRC/C/SR.589-591), held on 11 and 12 January 2000, the Committee on the Rights of the Child considered the initial report of India (CRC/C/28/Add.10), which was submitted on 19 March 1997, and adopted* the following concluding observations.

A. Introduction

2. The Committee expresses its appreciation of the report, which followed the Committee's guidelines. The Committee notes the detailed and informative written answers to the list of issues (CRC/C/Q/IND.1). The Committee regrets that time constraints did not allow the State party's delegation to answer all of the questions posed. Nevertheless, the Committee appreciated the open nature of the dialogue that took place. The Committee appreciates the additional written answers provided by the State party.

B. Positive aspects

3. The Committee is encouraged by the existence of a broad range of constitutional and legislative provisions, and institutions (e.g. the National Human Rights Commission, the National Commission for Women, and the Scheduled Castes and Scheduled Tribes Commission) for the protection of human rights and children's rights. Moreover, the Committee welcomes the frequent references to provisions of international human rights instruments by the courts, in particular the Supreme Court.

* At the 615th meeting, held on 28 January 2000.

4. The Committee welcomes the growing involvement of NGOs and other grass-roots organizations in activities to enhance the protection of human rights, including through "public-interest litigation".

5. The Committee welcomes the establishment of the Department of Education and Literacy, and notes the expressed commitment of the State party to achieving universal, free and compulsory primary education.

6. The Committee notes the State party's efforts and cooperation with international bodies and agencies and non-governmental organizations to address child health and labour issues in India.

C. Factors and difficulties impeding the implementation of the Convention

7. Taking into account the fact that the number of children in India represents an enormous proportion of the world's child population, the Committee notes that the task facing India in meeting the needs of all children under its jurisdiction presents enormous challenges, not least in the economic and social fields. The Committee also notes that the high rate of population growth makes it difficult to sustain the necessary resources.

8. The Committee notes that extreme poverty, which affects a significant part of India's population, the impact of structural adjustment, and natural disasters are factors which represent serious difficulties in the fulfilment of all of the State party's obligations under the Convention.

9. Given such a diverse and multicultural society, the Committee further notes that the existence of traditional customs (i.e. the caste system), and societal attitudes (e.g. towards tribal groups) is an obstacle to efforts to combat discrimination, and compounds, inter alia, poverty, illiteracy, child labour, child sexual exploitation, and children living and/or working on the streets.

D. Principal subjects of concern and Committee recommendations

D.1. General measures of implementation

Legislation

10. In the light of article 4 of the Convention, the Committee notes the unclear status of the Convention in the domestic legal framework and is concerned about the insufficient steps taken to bring existing federal, state and personal status laws into full conformity with the Convention.

11. **The Committee recommends that the State party pursue efforts to ensure full compatibility of its legislation with the Convention, taking due account of the general principles of the Convention. In this regard, the Committee encourages the State party to consider adopting a code for children.**

12. The Committee notes that insufficient efforts have been made to implement legislation and decisions of the courts and the commissions (i.e. the National Human Rights Commission, the National Commission for Women, and the Scheduled Castes and Scheduled Tribes Commission), and to facilitate the work of such institutions with respect to children's rights.

13. **The Committee recommends that the State party take all necessary measures, including the allocation of the required resources (i.e. human and financial) to ensure and strengthen the effective implementation of existing legislation. The Committee further recommends the State party to provide adequate resources and to take all other necessary steps to strengthen the capacity and effectiveness of national human rights institutions, including the National Human Rights Commission, the National Commission for Women, and the Scheduled Castes and Scheduled Tribes Commission.**

Coordination

14. Noting the complexities arising from the federal structure of government with regard to the delineation of responsibilities between federal and state levels, the Committee is concerned that insufficient administrative coordination and cooperation appears to be a serious problem in the implementation of the Convention.

15. **The Committee recommends that the State party adopt a comprehensive national plan of action, based on a child rights approach, to implement the Convention. The Committee recommends that attention be given to intersectoral coordination and cooperation at and between central, state and municipal levels of government. The State party is encouraged to provide support to local authorities, including capacity-building, for implementation of the Convention.**

Independent/monitoring structures

16. The Committee is concerned at the absence of an effective mechanism to collect and analyse disaggregated data of all persons under 18 years for all areas covered by the Convention, including the most vulnerable groups (i.e. children living in slums, belonging to different castes and tribal groups, living in rural areas, children with disabilities, children who are living and/or working on the streets, children affected by armed conflicts and refugee children).

17. **It recommends that the State party develop a comprehensive system for collecting disaggregated data as a basis to assess progress achieved in the realization of children's rights and to help design policies to be adopted to implement the Convention.**

18. The Committee welcomes the State party's intention to establish a national commission for children.

19. **The Committee encourages the State party to establish a statutory, independent national commission for children with the mandate of, inter alia, regularly monitoring and evaluating progress in the implementation of the Convention at the federal, state and local levels. Further, such a commission should be empowered to receive and address complaints of violations of child rights, including with respect to the security forces.**

Allocation of budgetary resources (art. 4)

20. The Committee welcomes the commitment of the State party to increase budgetary allocation for education from 4 to 6 per cent of the national budget. However, the Committee is concerned that insufficient attention has been paid to article 4 of the Convention regarding the implementation to the "maximum extent of ... available resources" of the economic, social and cultural rights of children.

21. **The Committee recommends that the State party develop ways to establish a systematic assessment of the impact of budgetary allocations on the implementation of child rights and to collect and disseminate information in this regard. The Committee also recommends that the State party ensure the appropriate distribution of resources at the central, state and local levels, and where needed, within the framework of international cooperation.**

Cooperation with NGOs

22. The Committee notes that cooperation with non-governmental organizations in the implementation of the Convention, including preparation of the report, remains limited.

23. **The Committee encourages the State party to consider a systematic approach to involve NGOs and civil society in general throughout all stages of the implementation of the Convention, including policy-making.**

Training/dissemination of the Convention (art. 42)

24. In the light of article 42, the Committee notes the low level of awareness of the Convention amongst the general public, including children, and professionals working with children. The Committee is concerned that the State party is not undertaking adequate dissemination and awareness-raising activities in a systematic and targeted manner.

25. **In this regard, the Committee recommends that the State party develop an ongoing programme for the dissemination of information regarding the implementation of the Convention among children and parents, civil society and all sectors and levels of government. The Committee encourages the State party to pursue efforts to promote children's rights education in the country, including initiatives to reach those vulnerable groups who are illiterate or without formal education. Moreover, the Committee recommends that the State party develop systematic and ongoing training programmes on the provisions of the Convention for all professional groups working with children (i.e. judges, lawyers, law enforcement officials, civil servants, local government officials, personnel working in institutions and places of detention for children, teachers, health personnel, including psychologists, and social workers). The Committee encourages the State party to seek assistance from, inter alia, UNICEF, in this regard.**

D 2 Definition of the child

26 In the light of article 1, the Committee is concerned that the various age limits set by the law are not in accordance with the general principles and other provisions of the Convention Of particular concern to the Committee is the very low age of criminal responsibility under the Penal Code, which is set at seven years, and the possibility of trying boys between 16 and 18 years as adults The Committee is concerned that there is no minimum age for sexual consent for boys The Committee is further concerned that minimum-age standards are poorly enforced (e g the 1929 Child Marriages Restraint Act)

27 **The Committee recommends that the State party review its legislation with a view to ensuring that age limits conform to the principles and provisions of the Convention, and that it take greater efforts to enforce those minimum-age requirements.**

D 3 General principles

The right to non-discrimination (art 2)

28 In the light of article 2 of the Convention, the Committee is deeply concerned at the widely disparate levels of enjoyment of the rights in the Convention by children living in different states, living in rural areas, living in slums and belonging to different castes, tribal and indigenous groups

29 **The Committee recommends that concerted efforts at all levels be taken to address social inequalities through a review and reorientation of policies, including increased budgetary provision for programmes targeting the most vulnerable groups.**

30 In the light of article 2 of the Convention, the Committee is concerned at the existence of caste-based discrimination and discrimination against tribal groups, despite these practices being prohibited under the law

31 **In accordance with article 17 of the Constitution and article 2 of the Convention, the Committee recommends that the State party take steps to ensure states abolish the discriminatory practice of "untouchability", prevent caste- and tribe-motivated abuse, and prosecute State and private actors who are responsible for such practices or abuses. Moreover, in compliance with article 46 of the Constitution, the State party is encouraged to implement, inter alia, affirmative measures to advance and protect these groups. The Committee recommends the full implementation of the 1989 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the 1995 Scheduled Castes and Scheduled Tribes Rules (Prevention of Atrocities) and the 1993 Employment of Manual Scavengers Act. The Committee encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat caste-based discrimination. In line with the Committee on the Elimination of Racial Discrimination (CERD/C/304/Add.13), the Committee stresses the importance of the equal enjoyment by members of these groups of the rights in the Convention, including access to health care, education, work, and public places and services, such as wells.**

32. The Committee notes the persistence of discriminatory social attitudes and harmful traditional practices towards girls, including female infanticide, selective abortions, low school enrolment and high drop-out rates, early and forced marriages, and religion-based personal status laws which perpetuate gender inequality in areas such as marriage, divorce, custody and guardianship of infants, and inheritance.

33. **In accordance with article 2 of the Convention, the Committee encourages the State party to ensure the enforcement of protective laws. The Committee encourages the State party to continue its efforts to carry out comprehensive public education campaigns to prevent and combat gender discrimination, particularly within the family. To assist in these efforts, political, religious and community leaders should be mobilized to support efforts to eradicate traditional practices and attitudes which discriminate against girls.**

Respect for the views of the child (art. 12)

34. In the light of article 12, the Committee notes that the views of the child are accorded insufficient importance, especially within the family, the school, care institutions, the courts and the juvenile justice system.

35. **The Committee encourages the State party to promote and facilitate within the family, the school, care institutions, the courts and the juvenile justice system respect for the views of children and their participation in all matters affecting them, in accordance with article 12 of the Convention. In this regard, the Committee recommends that the State party develop skills-training programmes in community settings for teachers, social workers and local officials in assisting children to make and express their informed decisions and to have their views taken into consideration.**

D.4. Civil rights and freedoms

Name and nationality (art. 7)

36. Given that lack of timely birth registration can have negative consequences on the full enjoyment of fundamental rights and freedoms by children, the Committee is concerned, in the light of article 7 of the Convention, that the births of a very significant number of children in India are not registered.

37. **The Committee recommends that the State party make greater efforts to ensure the timely registration of all births, in accordance with article 7 of the Convention, and take training and awareness-raising measures as regards registration in rural areas. The Committee encourages steps such as the establishment of mobile registration offices, and registration units in schools and health facilities.**

Right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

38. With respect to article 37 (a) of the Convention, the Committee is concerned by numerous reports of routine ill-treatment, corporal punishment, torture and sexual abuse of children in detention facilities, and alleged instances of killings of children living and/or working on the streets by law enforcement officials.

39. **The Committee recommends that the registration of each child taken to a police station be mandatory, including time, date and reason for detention, and that such detention be subject to frequent mandatory review by a magistrate. The Committee encourages the State party to amend sections 53 and 54 of the Code of Criminal Procedure so that medical examination, including age verification, is mandatory at the time of detention and at regular intervals.**

40. **The Committee recommends that the State party implement the recommendations made by the National Police Commission in 1980 and the Parliamentary Committee in 1996, which, inter alia, call for a mandatory judicial inquiry in cases of alleged rape, death or injury of persons in police custody; the establishment of investigative bodies; and payment of compensation to people who have been victims of custodial abuse. Amendment to the Juvenile Justice Act is recommended to provide for complaints and prosecution mechanisms for cases of custodial abuse of children. In addition, the Committee recommends the amendment of section 197 of the Code of Criminal Procedure, which requires government approval for prosecution of law enforcement officials when complaints of custodial abuse or illegal detention are alleged; and section 43 of the Police Act, so that police cannot claim immunity for actions while executing a warrant in cases of illegal detention or custodial abuse.**

41. **The Committee encourages the State party to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which it signed in 1997.**

D. 5. Family environment and alternative care

Adoption (art. 21)

42. In the light of articles 21 and 25 of the Convention, the Committee is concerned at the absence of uniform adoption law in India and effective measures to monitor and follow up placement within the State party and abroad.

43. **The Committee recommends the State party to review the legislative framework of domestic and intercountry adoption. The Committee recommends that the State party become a party to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.**

Violence/abuse/neglect/maltreatment (art 19)

44 In the light of articles 19 and 39 of the Convention, the Committee is concerned at the widespread ill-treatment of children in India, not only in schools and care institutions but also within the family.

45 **The Committee recommends that the State party take legislative measures to prohibit all forms of physical and mental violence, including corporal punishment and sexual abuse of children in the family, schools and care institutions. The Committee recommends that these measures be accompanied by public education campaigns about the negative consequences of ill-treatment of children. The Committee recommends that the State party promote positive, non-violent forms of discipline as an alternative to corporal punishment, especially in the home and schools. Programmes for the rehabilitation and reintegration of abused children need to be strengthened, and adequate procedures and mechanisms established to receive complaints, monitor, investigate and prosecute instances of ill-treatment.**

D 6 Basic health and welfare

Children with disabilities (art 23)

46 Noting the 1995 Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, the Committee nonetheless is concerned at the very poor level of and access to care for children with disabilities, especially those living in rural areas, and the lack of assistance provided to persons responsible for their care. In the light of article 23 of the Convention, the Committee emphasizes the need to ensure the implementation of policies and programmes to guarantee the rights of mentally and physically disabled children and to facilitate their full inclusion in society.

47 **In the light of the Standard Rules on the Equalization of Opportunities for Persons with Disabilities (General Assembly resolution 48/96) and of the Committee's recommendations adopted on its Day of General Discussion on Children with Disabilities (CRC/C/69), the Committee recommends that the State party increase the capacity of institutions for the rehabilitation of children with disabilities and improve access to services for such children living in rural areas. Awareness campaigns which focus on prevention, inclusive education, family care and the promotion of the rights of children with disabilities need to be undertaken. Adequate training should also be made available to persons working with these children. The Committee encourages the State party to undertake greater efforts to make available the necessary resources and to seek assistance from, inter alia, UNICEF, WHO and relevant NGOs.**

Right to health and health services (art 24)

48 In the light of article 24 of the Convention, the Committee notes that the State party has already focused and placed priority on the main health issues by establishing several national programmes. Nevertheless, the Committee is concerned at high maternal mortality, and very high levels of low birth weight and malnutrition among children, including micronutrient

deficiencies, linked to the lack of access to prenatal care and, more generally, limited access to quality public health care facilities, insufficient numbers of qualified health workers, poor health education, inadequate access to safe drinking water and poor environmental sanitation. This situation is exacerbated by the extreme disparities faced by women and girls, especially in rural areas.

49. **The Committee recommends that the State party take all necessary steps to adapt, expand and implement the Integrated Management of Child Illness strategy, and to pay particular attention to the most vulnerable groups of the population. The Committee also recommends that the State party undertake studies to determine the socio-cultural factors which lead to practices such as female infanticide and selective abortions, and to develop strategies to address them. The Committee recommends continued allocation of resources to the poorest sections of society and continued cooperation with and technical assistance from, inter alia, WHO, UNICEF, the World Food Programme and civil society.**

50. The Committee is concerned that the health of adolescents, particularly girls, is neglected, given, for instance, a very high percentage of early marriages, which can have a negative impact on their health. Adolescent suicides, especially among girls, and HIV/AIDS affected children are serious concerns for the Committee.

51. **The Committee recommends that the State party strengthen the existing National Reproductive and Child Health programme, targeting the most vulnerable groups of the population. The Committee recommends that the State party combat discrimination against HIV/AIDS affected persons by strengthening awareness-raising and sensitization programmes for the public, and particularly health professionals. The Committee recommends continued allocation of resources to the poorest sections of society and continued cooperation with and technical assistance from, inter alia, WHO, UNICEF, UNAIDS and civil society.**

Right to an adequate standard of living (art. 27)

52. The Committee is concerned at the high percentage of children living in inadequate housing, including slums, and their inadequate nutrition and access to safe drinking water and sanitation. The Committee is concerned at the negative impact on families and the rights of children of structural adjustment projects.

53. **In accordance with article 27 of the Convention, the Committee recommends that the State party take appropriate measures to give effect to its commitments made at Habitat II in 1996 regarding children's access to housing. In the light of Commission on Human Rights resolution 1993/77 on forced evictions, the Committee encourages the State party to prevent any occurrence of forced relocation, displacement and other types of involuntary population movements. The Committee recommends that resettlement procedures and programmes include registration, facilitate comprehensive family rehabilitation and ensure access to basic services.**

54. The Committee is concerned at the large and increasing number of children living and/or working on the streets, who are among the most marginalized groups of children in India.

55. **The Committee recommends that the State party establish mechanisms to ensure these children are provided with identity documents, nutrition, clothing and housing. Moreover, the State party should ensure these children have access to health care; rehabilitation services for physical, sexual and substance abuse; services for reconciliation with families; education, including vocational and life-skills training; and access to legal aid. The Committee recommends that the State party cooperate and coordinate its efforts with civil society in this regard.**

D.7. Education, leisure and cultural activities

Right and aims of education (arts. 28 and 29)

56. Welcoming the 83rd Constitutional Amendment Bill concerning the fundamental right to education, the Committee, however, expresses its concern at the prevailing poor situation in the State party with respect to education, which is characterized by a general lack of infrastructure, facilities and equipment, insufficient numbers of qualified teachers and a drastic shortage of text books and other relevant learning materials. There is serious concern regarding the striking disparities in terms of access to education, attendance at primary and secondary levels and drop-out rates between different states, rural and urban areas, boys and girls, the affluent and poor, and children belonging to scheduled castes and tribes. The Committee emphasizes the importance of focusing attention on improving the provision and quality of education, especially in view of its potential benefit for addressing various concerns, including the situation of girls and reducing the incidence of child labour.

57. **The Committee encourages the State party to enact the 83rd Constitutional Amendment Bill. In line with the 1993 and 1996 Supreme Court decisions (Unni Krishnan; and M.C. Mehta vs. State of Tamil Nadu and Others, respectively), the Committee recommends that the State party implement measures designed to comply with article 45 of the Constitution, which mandates free and compulsory education for all children up to 14.**

58. **The Committee recommends that the State party undertake studies on, and develop measures to address, the prevailing disparities in access to education; to improve the quality of teacher training programmes and the school environment; to ensure that the quality of non-formal education schemes is monitored and guaranteed and that working and other children who participate in such schemes are integrated into mainstream education. The Committee recommends that the State party ensure and facilitate opportunities for the most vulnerable groups of children to proceed to secondary education.**

59. **The Committee recommends that the State party take due regard of the aims of education laid down in article 29 of the Convention, including tolerance and equality between the sexes and friendship among all peoples, ethnic, national and religious groups and persons of indigenous groups. The Committee recommends that the State party consider introducing human rights issues, including the Convention, into the school curricula.**

60 **The Committee encourages the State party to make available the necessary resources and to seek assistance from inter alia UNICEF, UNESCO and relevant NGOs.**

D 8 Special measures of protection

Unaccompanied, asylum-seeking and refugee children (art 22)

61 Welcoming administrative policies which have generally been in line with international refugee law principles, the Committee is concerned that in the absence of legislation there remains no guarantee that children asylum-seekers and refugees will be ensured the protection and assistance provided by the Convention. The Committee is concerned that there exists the potential for children born of refugee parents to become stateless, that there is no adequate legal mechanism to deal with family reunification, and that although refugee children attend school on a de facto basis, there is no legislation which entitles these children to education.

62 **The Committee recommends that the State party adopt comprehensive legislation to ensure adequate protection of refugee and asylum-seeking children, including in the field of physical safety, health, education and social welfare, and to facilitate family reunification. In order to promote the protection of refugee children, the Committee encourages the State party to consider ratifying the 1951 Convention relating to the Status of Refugees, and its 1967 Protocol; the 1954 Convention relating to the Status of Stateless Persons; and the 1961 Convention on the Reduction of Statelessness.**

Children and armed conflict, and their recovery (arts 38 and 39)

63 The Committee is concerned that the situation in areas of conflict, particularly Jammu and Kashmir and the north-eastern states, have seriously affected children, especially their right to life, survival and development (art 6 of the Convention). In the light of articles 38 and 39, the Committee expresses its very serious concern at reports of children who are involved in and are victims of these conflicts. Moreover, it is concerned at reports of involvement of the security forces in disappearances of children in these conflict areas.

64 **The Committee recommends that the State party at all times ensure respect for human rights and humanitarian law aimed at the protection and care of children in armed conflict. The Committee calls upon the State party to ensure impartial and thorough investigations in cases of rights violations committed against children and the prompt prosecution of those responsible, and that it provide just and adequate reparation to the victims. The Committee recommends that clause 19 of the Protection of Human Rights Act be repealed to allow inquiries into alleged abuses committed by members of the security forces to be conducted by the National Commission on Human Rights. In line with the recommendations of the Human Rights Committee (CCPR/C/79/Add.81), the Committee recommends that the requirement of governmental permission for criminal prosecutions or civil proceedings against members of the security forces be abolished.**

Economic exploitation (art. 32)

65. The Committee notes that India was the first country to sign a Memorandum of Understanding with the ILO in 1992 to implement the ILO-IPEC programme. The Committee further notes the amendments to schedules A and B of the 1986 Child Labour (Prohibition and Regulation) Act. Nevertheless, the Committee remains concerned at the large numbers of children involved in child labour, including bonded labour, especially in the informal sector, household enterprises, as domestic servants, and in agriculture, many of whom are working in hazardous conditions. The Committee is concerned that minimum age standards for employment are rarely enforced and appropriate penalties and sanctions are not imposed to ensure that employers comply with the law.

66. **The Committee encourages the State party to withdraw its declaration with respect to article 32 of the Convention, as it is unnecessary in the light of the efforts the State party is making to address child labour. The Committee recommends that the State party ensure the full implementation of the 1986 Child Labour (Prohibition and Regulation) Act, the 1976 Bonded Labour (System Abolition) Act and the 1993 Employment of Manual Scavengers Act.**

67. **The Committee recommends that the 1986 Child Labour Act be amended so that household enterprises and government schools and training centres are no longer exempt from prohibitions on employing children; and coverage is expanded to include agriculture and other informal sectors. The Factories Act should be amended to cover all factories or workshops employing child labour. The Beedi Act should be amended so that exemptions for household-based production are eliminated. Employers should be required to have and produce on demand proof of age of all children working on their premises.**

68. **The Committee recommends that the State party ensure that laws provide criminal and civil remedies, especially in the light of decisions of the Supreme Court in relation to compensation funds for child labourers (M.C. Mehta vs. The State of Tamil Nadu and M.C. Mehta vs. Union of India). The Committee recommends that court procedures be simplified, so that responses are appropriate, timely and child-friendly; and to vigorously pursue enforcement of minimum-age standards.**

69. **The Committee recommends that the State party encourage states and districts to establish and oversee child labour vigilance committees, and ensure that a sufficient number of labour inspectors are adequately resourced to carry out their work effectively. A national mechanism to monitor the implementation of standards at state and local levels should be established and empowered to receive and address complaints of violations, and to file First Information Reports.**

70. **The Committee recommends that the State party undertake a national study on the nature and extent of child labour, and that disaggregated data, including violations, be compiled and kept up to date to serve as a basis for designing measures and evaluating progress. The Committee further recommends that the State party continue its efforts to carry out campaigns to inform and sensitize the general public, especially parents and**

children, of work hazards; and to involve and train employers', workers' and civic organizations, government officials, such as labour inspectors and law enforcement officials, and other relevant professionals.

71. **The Committee calls upon the State party to ensure that the competent authorities cooperate and coordinate their activities, including with respect to education and rehabilitation programmes; and that present cooperation between the State party and relevant United Nations agencies, such as ILO and UNICEF, and NGOs be expanded. The Committee recommends that the State party ratify ILO Convention No. 138 concerning the Minimum Age for Admission to Employment, and No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.**

Drug abuse (art. 33)

72. In the light of article 33, the Committee is concerned about the increasing use and traffic in illicit drugs, especially in the large urban centres of Mumbai, New Delhi, Bangalore and Calcutta, and the growing use of tobacco among persons under 18 years, especially girls.

73. **The Committee recommends that the State party develop a national drug control plan, or a Master Plan, with the guidance of the United Nations Drug Control Programme (UNDCP). The Committee encourages the State party to continue its efforts to provide children with accurate and objective information about substance use, including tobacco use, and to protect children from harmful misinformation through comprehensive restrictions on tobacco advertising. The Committee recommends cooperation with and assistance from WHO and UNICEF. The Committee further recommends that the State party develop rehabilitation services for children who are victims of substance abuse.**

Sexual exploitation and sexual abuse (art. 34)

74. The Committee notes the Plan of Action to Combat Trafficking and Commercial Sexual Exploitation of Women and Children. However, in view of the scale of the problem, the Committee is concerned about the sexual abuse and exploitation of children especially those belonging to the lower castes and from poor urban and rural areas, in the contexts of: religious and traditional culture; child domestic workers; children living and/or working on the streets; communal violence and ethnic conflict; abuse by the security forces in areas of conflict, such as Jammu and Kashmir, and the north-eastern states; and trafficking and commercial exploitation, especially girls from neighbouring countries, particularly Nepal. It is also concerned about the absence of adequate measures to combat this phenomenon and the lack of adequate rehabilitation measures.

75. **The Committee recommends that the State party ensure that legislation criminalizes the sexual exploitation of children and penalizes all the offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalized. While noting that Devadasi, or ritual prostitution, is prohibited under the law, the Committee recommends that the State party take all necessary measures to eradicate this practice. In order to combat trafficking in children, including for commercial sexual purposes, the Penal Code should contain provisions against kidnapping and abduction. The Committee**

recommends that the State party ensure that laws concerning the sexual exploitation of children are gender neutral; provide civil remedies in the event of violations; ensure that procedures are simplified so that responses are appropriate, timely, child-friendly and sensitive to victims; include provisions to protect from discrimination and reprisals those who expose violations; and vigorously pursue enforcement.

76. **The Committee recommends that a national mechanism to monitor implementation should be established, as well as complaints procedures and helplines. Rehabilitation programmes and shelters should be established for child victims of sexual abuse and exploitation.**

77. **The Committee recommends that the State party undertake a national study on the nature and extent of sexual abuse and sexual exploitation of children, and that disaggregated data be compiled and kept up to date to serve as a basis for designing measures and evaluating progress. The Committee recommends that the State party continue its efforts to carry out extensive campaigns to combat harmful traditional practices, such as child marriages and ritual prostitution; and inform, sensitize and mobilize the general public on the child's right to physical and mental integrity, and safety from sexual exploitation.**

78. **The Committee recommends that bilateral and regional cooperation be reinforced, involving cooperation with border police forces from neighbouring countries, especially along the eastern frontier areas in the states of West Bengal, Orissa and Andhra Pradesh. The State party should ensure that the competent authorities cooperate and coordinate their activities; and that present cooperation between the State party, and, inter alia, UNICEF, be expanded.**

Administration of juvenile justice (arts. 37, 40 and 39)

79. The Committee is concerned over the administration of juvenile justice in India and its incompatibility with articles 37, 40 and 39 of the Convention and other relevant international standards. The Committee is also concerned at the very young age of criminal responsibility - 7 years - and the possibility of trying boys between 16 and 18 years of age as adults. Noting that the death penalty is de facto not applied to persons under 18, the Committee is very concerned that de jure, this possibility exists. The Committee is further concerned at the overcrowded and unsanitary conditions of detention of children, including detention with adults; lack of application and enforcement of existing juvenile justice legislation; lack of training for professionals, including the judiciary, lawyers and law enforcement officers, in relation to the Convention, other existing international standards and the 1986 Juvenile Justice Act; and the lack of measures and enforcement thereof to prosecute officials who violate these provisions.

80. **The Committee recommends that the State party review its laws in the administration of juvenile justice to ensure that they are in accordance with the Convention, especially articles 37, 40 and 39, and other relevant international standards such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile**

Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of their Liberty and the Vienna Guidelines for Action on Children in the Criminal Justice System.

81. **The Committee recommends that the State party abolish by law the imposition of the death penalty on persons under 18. The Committee also recommends that the State party consider raising the age of criminal responsibility and ensure that persons under 18 years are not tried as adults. In accordance with the principle of non-discrimination contained in article 2 of the Convention, the Committee recommends article 2 (h) of the 1986 Juvenile Justice Act be amended to ensure that boys under 18 years are covered by the definition of juvenile, as girls already are. The Committee recommends that the 1986 Juvenile Justice Act be fully enforced and that the judiciary and lawyers be trained and made aware of it. The Committee further recommends that measures be taken to reduce overcrowding, to release those who cannot be given a speedy trial and to improve prison facilities as quickly as possible. The Committee recommends that the State party ensure regular, frequent and independent monitoring of institutions for juvenile offenders.**

82. **The Committee further suggests that the State party consider seeking technical assistance from, inter alia, the Office of the United Nations High Commissioner for Human Rights, the Centre for International Crime Prevention, the International Network on Juvenile Justice and UNICEF, through the Coordination Panel on Juvenile Justice.**

D.9. Dissemination of the report

83. **Finally, the Committee recommends that in accordance with article 44, paragraph 6, of the Convention, the initial report submitted by the State party be made widely available to the public at large and that consideration be given to the publication of the report along with the written answers to the list of issues raised by the Committee, the relevant summary records of the discussion and the concluding observations adopted thereon by the Committee following its consideration of the report. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.**